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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,679	09/29/2003	Mark J. Pettay	PAT-008A	2036

29129 7590 02/25/2009

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EXAMINER	
YEN, ERIC L	

ART UNIT	PAPER NUMBER
2626	

NOTIFICATION DATE	DELIVERY MODE
02/25/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/673,679	PETTAY ET AL.	
	Examiner	Art Unit	
	ERIC YEN	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-63* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-63* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the Office Action mailed 10/17/08, applicant has submitted an amendment filed 11/19/08.

Claims 1, 23, 33, 60-63, have been amended.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 23, 33, 60-63 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that applicant's invention has nothing to do with selecting a successful agent at all (Amendmnet, page 13). However, this is irrelevant because the combination need not be whatever applicant intended, nor does it need to be for the reason applicant intended. The claim limitation that was taught by Shambaugh is "determining whether the at least one agent has adequately followed the at least one script, by dividing the voice interaction into viewable panel-level segments and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction". The claim language does not include for what purpose, nor would the purpose be relevant, that this analysis is performed. Shambaugh teaches that this analysis is done for the purpose of determining success, which Shambaugh later uses, for example, to adjust the system (col. 6, lines 4-20). Since one of ordinary skill in the art using Shambaugh's analysis would want to make sure his/her dialog system is the

best it could be, and if analyzing an agent's interaction can help that, then it is obvious for him/her to include this feature. There is no requirement for the rejection to be exactly what applicant has in mind unless the claim language specifically sets forth applicant's invention in sufficient detail such that the prior art cannot read on a different interpretation of the claim. If there is an alternate interpretation to the claim language, whether it be a different definition of a term or otherwise, the prior art can apply to that interpretation even if it is not applicant's intended meaning to the claim language and/or if it is not applicant's invention.

Applicant then argues that “the portion of Garcia that the examiner quates” to “evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction” “is not related to and therefore does not obviate the claim” (Amendment, page 13, paragraph 2). Applicant points out "the portion of Garcia states 'if voice recognition software is used, a choice is entered based on customer voice response, which must be enabled at the customer end”. Applicant's conclusion is that the examiner has misinterpreted the prior art and also distilled the invention down to a thrust or gist of the invention" and that "throughout the office action the examiner has, in a detailed manner, methodically separated claim elements, given some elements a particular meaning to fit the element or portion of the element to the prior art and has made different claims about the same prior art (Amendment, page 14).

However, this argument is flawed because there is no requirement to apply claim limitations given applicant's intended definitions of the terms. Nor is there any

requirement that limitations cannot be separated or that terms cannot be given alternative interpretations. The Specification cannot be read into the claims and claims are to be given their broadest reasonable interpretation. This does not limit the claims to applicant's definitions of terms nor applicant's intended meaning to the claim language.

"Evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction" can be interpreted as inputting a user-spoken speech input to a speech recognizer. Garcia teaches a customer's voice response being used in a voice recognition option. The voice recognition in Garcia, in this case, is synonymous with the automatic speech recognition used to find out exactly what the customer input is. Therefore, there exists a speech/voice recognition component that analyzes the input waveform and converts it into data that the system can understand. This analysis is a form of evaluation since there are numerous algorithms or processes that can be applied to convert the input speech into computer-comprehensible data. So the fact that Garcia teaches a voice recognition option processing an input voice to determine a choice reads on this portion of applicant's claim. If applicant has any specifics to the evaluation, such as sampling, use of Hidden Markov Models, use of neural networks and other classifiers, pattern matching, pre-processing, etc., they must be claimed to have patentable weight.

Therefore, the examiner maintains the rejections of the previous claim limitations under Garcia and Shambaugh.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-10, 12-16, 18, 20, 23-63, are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia (US 2003/0007612), in view of Shambaugh et al. (US 6,970,821), hereafter Shambaugh, and Yuschik (US 6,526,382).

As per claim 1, Garcia teaches, "a method for evaluating compliance of at least one agent reading at least one script to at least one client", the method comprising at least the following:

"conducting at least one voice interaction between the at least one agent and the at least one client, wherein the at least one agent follows the at least one script" (paragraphs 0012 and 0013);

"evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction" (paragraph 0047); and

Garcia fails to teach determining whether the at least one agent has adequately followed the at least one script, by dividing the voice interaction into viewable panel-level segments and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction.

Shambaugh teaches determining whether the at least one agent has adequately followed the at least one script (“compare the script presented to the selected agent with the recognized words… used by the agent”, col. 6, lines 4-20), by dividing the voice interaction into viewable panel-level segments (“display an initial portion of the script”, col. 3, lines 53-61; where a portion is put into the screen where the portion of the screen that the portion is displayed on is a “panel”) and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction (“compare the script presented to the selected agent with the recognized words… used by the agent”, col. 6, lines 4-20)

wherein a set of action rules is applied to the output of the determining to direct a quality assurance action to be taken (“scripting system may extend the storyline", col. 5, lines 28-43; "detect any differences... incorporated into script", col. 6, lines 4-20; “objective", col. 6, lines 28-37).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Garcia to include the teaching of Shambaugh of determining whether the at least one agent has adequately followed the at least one script, by dividing the voice interaction into viewable panel-level segments and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction, in order to determine whether an agent is successful or not, as described by Shambaugh (col. 6, lines 5-7).

Garcia, in view of Shambaugh, fail to teach wherein a panel-level time displacement stamp is assigned to each panel.

Yuschik teaches wherein a panel-level time displacement stamp is assigned to each panel ("menu states… and timing for the flow of a dialogue", col. 5, line 61 – col. 6, line 12; "easy to understand… signal when it is time for the user to respond", col. 14, lines 1-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Garcia, in view of Shambaugh, to include the teaching of Yuschik, in order to provide fluid and productive dialog with a user, as described by Yuschik (col. 14, lines 1-13).

As per claim 2, Garcia teaches, "wherein conducting at least one voice interaction includes conducting at least one voice interaction involving a telemarketing agent" (paragraph 0049).

As per claim 3, Garcia teaches, "wherein conducting at least one voice interaction includes conducting at least one voice interaction governed by at least one script that includes text corresponding to at least one offer of at least one of goods and services" (paragraph 0049).

As per claim 4, Garcia teaches, "wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on at least one communications network" (paragraph 0047).

As per claim 5, Garcia teaches, "wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on a publicly switched telephone network (PSTN)" (paragraph 0045).

As per claim 6, Garcia teaches, “wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on at least one Internet” (paragraph 0029).

As per claim 7, Garcia teaches, “wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on at least one communications network having at least one wireless component” (paragraph 0040).

As per claim 8, Garcia teaches, “wherein conducting at least one voice interaction includes conducting at least one telephone call “ (paragraph 0040).

As per claim 9, Garcia teaches, “wherein conducting at least one voice interaction includes conducting at least one telephone call that is initiated by the at least one client” (paragraph 0043).

As per claim 10, Garcia teaches, “wherein conducting at least one voice interaction includes conducting at least one telephone call that is initiated by an entity other than the at least one client” (paragraph 0046).

As per claim 12, Garcia teaches, “further comprising performing at least one action based upon at least one result of the evaluating of the at least one voice interaction” (paragraph 0047).

As per claim 13, Garcia teaches, “wherein performing at least one action includes transmitting at least one signal to the at least one agent” (paragraph 0048).

As per claim 14, Garcia teaches, “wherein performing at least one action includes transmitting at least one signal to at least one reviewing authority” (paragraph 0049).

As per claim 15, Garcia teaches, "wherein performing at least one action includes making at least one entry in at least one script compliance incentive system" (paragraph 0012).

As per claim 16, Garcia teaches, "further comprising reviewing at least one determination of whether the at least one agent has adequately followed the at least one script" (paragraph 0012).

As per claim 18, Garcia teaches, "wherein evaluating the at least one voice interaction includes evaluating a plurality of panels" (paragraph 0049).

As per claim 20, Garcia teaches "further comprising comparing data representing an actual duration of at least one interaction, wherein the at least one agent reads at least one script to the at least one client, to data representing an expected duration parameter associated with the at least one interaction" (paragraph 0054).

As per claims 23-60, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 1-10, 12-16, 18 and 20.

1. Claims 11, 17, 19, 21, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia (2003/0007612), in view of Shambaugh and Yuschik, as applied to claim 1 above, and further in view of Rtischev et al. (US 5,634,086).

As per claim 11, Garcia teaches, standard voice interaction IVR and voice recognition is used to automatically routing the call (Paragraphs 0044 and 0047). Garcia, in view of Shambaugh and Yuschik, do not explicitly teach, "wherein evaluating the at least one interaction includes at least the following: converting the at least one voice interaction into at least one digital signal comprising at least one spectral

representation of the at least one voice interaction, comparing the at least one digital signal to at least one reference standard that includes at least one known vocabulary, and matching the at least one digital signal to at least one of words and phrases contained in the at least one reference standard". However, Rtischev teaches, "wherein evaluating the at least one interaction includes at least the following: converting the at least one voice interaction into at least one digital signal comprising at least one spectral representation of the at least one voice interaction, comparing the at least one digital signal to at least one reference standard that includes at least one known vocabulary, and matching the at least one digital signal to at least one of words and phrases contained in the at least one reference standard" (col. 1, lines 44-54; col. 4, lines 51-58; col. 5, lines 4-27). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a well-known voice recognizer as teaches by Rtschev in the invention of Garcia, in view of Shambaugh and Yuschik, because Rtschev teaches his invention provides for real-time conversation between the system and the user (col. 3, line 66 to col. 4, line 2).

As per claim 17 and 19, Garcia, in view of Shambaugh and Yuschik, do not explicitly teach, "script includes defining at least one score assigned by the at least one automatic speech recognition component". However, Rtschev teaches, "script includes defining at least one score assigned by the at least one automatic speech recognition component" (col. 5, lines 47-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rtschev's teaching in the invention of Garcia, in view of Shambaugh and Yuschik, because Rtschev teaches his

invention provides for real-time conversation between the system and the user (col. 3, line 66 to col. 4, line 2).

As per claims 21 and 22, Garcia, in view of Shambaugh and Yuschik, do not explicitly teach, "a comparison of data representing an actual duration of the at least one interaction to data representing an expected duration parameter associated with the at least one interaction". However, Rtschev teaches, "a comparison of data representing an actual duration of the at least one interaction to data representing an expected duration parameter associated with the at least one interaction" (col. 9, lines 1-22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rtschev's teaching in the invention of Garcia, in view of Shambaugh and Yuschik, because Rtschev teaches his invention provides for real-time conversation between the system and the user (col. 3, line 66 to col. 4, line 2).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

6.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC YEN whose telephone number is (571)272-4249. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EY 2/13/09
/Patrick N. Edouard/
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